



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)
)
TERRANCE CURRY,)
Complainant,)
)
and)
)CHARGE NO: 2001 CF 1574
)EEOC NO: 21 BA 10781
)ALS NO: 11887
LUCENT TECHNOLOGIES, INC.,)
Respondent.)

RECOMMENDED ORDER AND DECISION

This matter is before me on Respondent's oral motion to dismiss this matter for Complainant's failure to prosecute his Complaint.

FINDINGS OF FACT

1. Complainant filed a Charge with the Department of Human Rights (Department) on January 29, 2001, alleging that Respondent discriminated against him in violation of the Illinois Human Rights Act, 775 ILCS 5/1-101 et.seq.
2. The Department filed a Complaint on behalf of the Complainant with the Illinois Human Rights Commission (Commission) on September 20, 2002.
3. Respondent filed an answer to the Complaint on October 22, 2002 and filed verification to that answer on December 13, 2002.
4. Respondent appeared through counsel and Complainant appeared pro se on December 10, 2002. An order was entered ordering the Parties to serve initial discovery no later than January 17, 2003 and to appear for discovery status on February 26, 2003.
5. On February 26, 2003, Respondent appeared through counsel; Complainant did not appear. Respondent represented that Complainant had failed to propound any discovery requests and had further failed to respond to Respondent's discovery requests. Respondent made an oral motion to dismiss the matter for Complainant's failure to prosecute.
6. A review of the record indicated no proof of service of discovery requests or responses had been filed by Complainant; therefore, I entered an order ordering Complainant to file a written response to Respondent's motion to dismiss by March 21, 2003, and Respondent to file a reply by April 4, 2003, and further ordering the Parties to appear on April 23, 2003.
7. Although Complainant did not file a response, on April 4, 2003, Respondent filed a written reply in support of its motion to dismiss, stating

- that Complainant had not filed a response nor had Complainant tendered responses to Respondent's discovery requests.
8. On April 10, 2003, Complainant filed a letter, dated January 31, 2003, indicating his intention not to pursue this matter further; however, there was no certificate of service on opposing counsel attached.
 9. On April 23, 2003, Respondent appeared through counsel; Complainant did not appear. Respondent represented that he had received a copy of the January 31, 2003, letter from Complainant; therefore, I placed the letter of record.
 10. Respondent further represented it still had not received a written response to its motion or to its discovery requests.

CONCLUSION OF LAW

The failure of Complainant to propound discovery, to answer Respondent's discovery requests, or to file a response to Respondent's motion to dismiss, has resulted in unreasonable delay, justifying dismissal of this Complaint with prejudice.

DISCUSSION

Section 5300.750(e) of the Procedural Rules of the Illinois Human Rights Commission authorizes a recommendation for dismissal with prejudice where a party fails to appear at a scheduled hearing without requesting a continuance reasonably in advance, or unreasonably refuses to comply with any Order entered, or otherwise engages in conduct which unreasonably delays or protracts the proceedings. Similarly, 775 ILCS 5/8A-102(l)(6) authorizes a recommended order of dismissal, with prejudice, or of default as a sanction for a party's failure to prosecute her case, appear at a hearing, or otherwise comply with this Act, the rules of the Commission, or a previous Order of the Administrative Law Judge.

The record indicates that Complainant has ignored Commission orders to propound and answer discovery, has failed to appear for scheduled hearings on February 26, 2003 and April 23, 2003, and has failed to file a response to Respondent's motion to dismiss, as ordered.

As Complainant has taken no steps to indicate his desire to pursue this matter, I can take no other action in this case except to dismiss the Complaint.

RECOMMENDATION

Therefore, I recommend that this Complaint and the underlying Charge be dismissed with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
SABRINA M. PATCH
Administrative Law Judge
Administrative Law Section

ENTERED: April 28, 2003